



USER'S GUIDE TO THE HERNDON ZONING ORDINANCE

30. Vacating a Street Right-of-Way

The Town of Herndon Zoning Ordinance User Guide series provides the public with general information on land use regulations affecting activities undertaken by the public and administered by the Herndon Department of Community Development. It is not intended to be a complete statement of all applicable regulations. Individuals are encouraged to contact the Department of Community Development at 703-787-7380 for complete permitting requirements.

What is a Public Right-of-Way?

Rights-of-way often are "owned" by the public. The most common rights-of-way are for roads, but there may also be right-of-way designated for utilities, drainage, stormwater or some other public use.

What is a Right-of-Way Vacation?

When a right-of-way is vacated, it is returned to private ownership without any right-of-way privileges. Generally, when a right-of-way is vacated, the abutting property owners would become the owners of the property that was vacated. For example if a 50 foot right-of-way were vacated, 25 feet would go to the property owners on one side and 25 feet to the owners on the other side. The Town has the authority only to vacate rights-of-way in which it has an ownership interest.

What is the process to vacate a street right-of-way?

A representative from the Department of Community Development is available to discuss the process and answer questions concerning the proposed right-of-way vacation. A list of required documentation is stated on the application form.

If more than one party owns land abutting the right-of-way proposed to be vacated, it is important that all parties communicate and coordinate their intentions with regard to the right-of-way because each owner has a right to acquire a portion of the right-of-way. All owners who desire to join in the petition for

the vacation of the right-of-way become co-applicants. It may be necessary for the parties to agree upon a price for the property in the right-of-way to be vacated. At its option, the Town Council may determine to sell the property in the right-of-way at a price related to the assessed value of adjacent land.

Upon receipt of the completed application, required documentation, and the application fee, the staff in the Department of Community Development will proceed with the review process for vacating a right-of-way. The Town uses the following steps in the right-of-way vacation process:

1. The co-applicants submit an application which serves as a petition to the Town Council and includes all of the information listed on the application.
2. The Department of Community Development staff reviews the proposal and prepares a staff report for the Planning Commission.
3. The co-applicants provide required legal notice to affected persons in accordance with instructions provided by the Department of Community Development.
4. The Town staff presents the application to the Planning Commission at its worksession and Public Hearing.
5. In accord with Section 15.2-2232 of the Code of Virginia (1950), as amended, the Planning Commission will determine if this vacation is substantially in accord with the Town's adopted Herndon 2010 Comprehensive Plan.
6. If additional property information or other documentation is needed, the Planning Commission may defer the application. With or

without a favorable recommendation from the Planning Commission, the request to vacate right-of-way and its application will appear on a subsequent Town Council agenda.

7. The Town Council considers right-of-way vacation applications at Town Council Regular Sessions, which are open to the public.

8. If additional property information or other documentation is needed, the Town Council may defer the application.

9. If approved, the Town Council takes action on the right-of-way vacation as a resolution through a majority vote of the Town Council.

10. Once the application is approved, the co-applicants are responsible for filing plats of easement and consolidation for all adjacent properties to which parts of the right-of-way are being granted. Once the plats are

approved administratively by the Town, the co-applicants are responsible for recording the plats and providing recordation information to the Town.

11. The Town staff records the Ordinance of Vacation and quit claim deed, as may be directed by the Town Council.

The right-of-way vacation process usually takes three to four months to complete upon receipt of the completed application, required documentation, and the application fee.

Please note that the Legal Title to the area of a street vacated by the Town is not assured by the Town. The vacation action removes only the Town's public street interest in the land. Other persons may have rights in this land. In addition, the Town may retain rights by establishing public easements in the vacated area.

Need more information?

Have a question on required permits, the permit process, or application requirements? Call or make an appointment to see a member of the staff in the **Department of Community Development at 703-787-7380**.

Have a question regarding building permits or construction codes? Call or make an appointment to see the **Building Official at 703-435-6850**.

Visit the Town of Herndon on the web at www.herndon-va.gov for the Zoning Ordinance User Guide series or to access the Town Code. Town offices are located at the Herndon Municipal Center at 777 Lynn Street, Herndon, Virginia, 20170.

User's Guide to the Zoning Ordinance Series

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| <ol style="list-style-type: none"> 1. Neighborhood Meetings and Public Participation in the Planning and Zoning Process 2. Zoning Map Amendments 3. Signs 4. Special Exceptions 5. Site Plan Review Procedures 6. Single Lot Development 7. Chesapeake Bay Provisions 8. Traffic Impact Studies 9. Subdivision Site Plans 10. Unified Commercial Subdivisions 11. Performance Guarantees 12. Heritage Preservation Regulations 13. Board of Zoning Appeals 14. Conducting a Business in the Home 15. Fences 16. Accessory Structures 17. Summary of Permitted and Allowed Uses in the Zoning Districts 18. Summary of Dimensional Standards in the Zoning Districts | <ol style="list-style-type: none"> 19. Commercial Vehicle Parking in Residential Districts 20. Parking on Lots with Single Family Detached Dwellings 21. Landscape and Buffer Requirements 22. Explanation of Variances, Waivers, Adjustments, and Exceptions 23. Fee Schedule 24. Temporary Use Permits, Special Events 25. Day Care, Child Care, Preschool and Home Day Care 26. Zoning Inspection and Zoning Appropriateness Permits 27. Written (Mailed) Notification to Adjacent Property Owners for Scheduled Public Hearings 28. Refuse Collection on Private Property 29. Exterior Lighting Standards 30. Vacating a Street Right-of-Way 31. Portable Storage Units 32. Building Location Surveys 33. Water Quality Impact Assessments |
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34. Chesapeake Bay Provisions for Homeowners: Step
by Step Approval Process for Single Family
Detached and Duplex Dwellings

35. Roll off dumpsters
36. Bed and Breakfast Establishments